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October 16, 2020

VIA ECF

The Honorable Michael A. Shipp, U.S.D.J.
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Room 2020
Trenton, NJ 08608

**RE: Progress of Settlement Negotiations
McKeon v. City of Asbury Park et al, No. 3:19-cv-08536-MAS-ZNQ**

Dear Judge Shipp:

As Your Honor is aware, this firm represents Defendants the City of Asbury Park, Mayor John Moor, and Michael Capabiano (collectively, “Defendants”) in the above-referenced matter filed by Plaintiff Robert McKeon (“Plaintiff”) (Defendants and Plaintiff collectively, “Parties”). Please accept this correspondence as a further update regarding the progress of the Parties’ settlement negotiations and as a follow-up to my letters to the Court dated October 9, 2020 (ECF No. 36) and October 13, 2020 (ECF No. 37).

I am happy to report that the Parties have largely agreed to a form of settlement agreement in accordance with Your Honor’s September 25, 2020 Opinion and Order (ECF Nos. 34 & 35). In particular, the Parties have agreed that all of Plaintiff’s pending Open Public Records Act (“OPRA”) requests “related to the Civil Litigation” must be withdrawn as a condition of the settlement. (ECF No. 34, at p. 13). To reduce the possibility of future motion practice related to the enforcement of the settlement agreement, the Parties are now working to identify and agree to which of Plaintiff’s pending OPRA requests relate to the litigation and must be withdrawn.

Including the OPRA requests pending at the time the Parties executed the Term Sheet, Plaintiff has submitted at least eighteen (18) OPRA requests to the City in 2019 and 2020. These eighteen requests collectively contain more than 100 sub-requests for documents and information. As of this writing, the Parties have agreed that seven (7) of the pending OPRA requests (accounting for about half of the sub-requests) relate to the litigation and must be withdrawn. However, the Parties require additional time to determine and agree whether any of the remaining OPRA requests relate to the litigation and must also be withdrawn.

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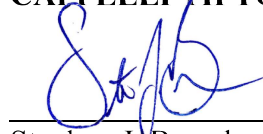
The Parties will continue to work diligently to resolve this issue and to arrive at a form of settlement agreement that identifies all OPRA requests to be withdrawn and is consistent with the Term Sheet and the Court's Opinion as directed.

I remain available at any time should the Court have any questions, concerns, or require additional information. Your Honor's continued attention and courtesies with respect to this matter are greatly appreciated.

Very truly yours,

**FLORIO PERRUCCI STEINHARDT
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By:



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cc (via e-mail & ECF):

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